

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2140 OF 2021

SUNANDA SHAMRAO MORE AND ANR.)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sagar Kasar a/w. Mr.Sachin Patil a/w. Mr.Dnyaneshwar
Jaibhave, Advocate for the Applicants.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

DATE : 21st OCTOBER 2021

P.C. :

1 The present application has been moved by the
applicant under Section 438 of the Code of Criminal Procedure
apprehending arrest under Sections 306, 498A read with 34 of
the Indian Penal Code (IPC) registered vide Crime No.379 of
2021 with Police Station Malshiras.

2 The informant is brother of Puja More (since deceased) who was married to accused Anil Shyamrao More (A-1). The present applicants are mother-in-law and father-in-law of the deceased. The prosecution alleges that since three years prior to the date of the incident, the in-laws of the deceased used to doubt on her character and also quarrel. On 24th July 2021 the applicant no.2 gave a phone call on the mobile phone of the informant and informed him that the deceased was giving phone calls to some unknown persons and her conduct had not improved. The deceased, ultimately, committed suicide by hanging on 25th July 2021.

3 Mr.Sagar Kasar, learned counsel for the applicants submits that the ingredients of Section 306 of the IPC are missing. The allegations are quite vague and general in nature. Moreover, having regard to the nature of accusations, there is no necessity of custodial interrogation. Hence the applicants deserve to be given the benefit of pre-arrest bail.

4 Smt.Anamika Malhotra, learned APP, on the other hand, opposed the submissions by contending that investigation is in progress and having regard to the conduct of the applicants which is fairly reflected from the First Information Report (FIR), they need not be given benefit of pre-arrest bail.

5 I have carefully gone through the contents of the FIR. Needless to say, the necessary requisites of Section 306 of the IPC encompass an act of abetment as defined in Section 107 of the IPC. Prima facie, the ingredients of Section 306 read with 107 of the IPC are missing from the FIR. For this reason alone, the present application deserves consideration.

6 Even assuming for the sake of argument that there are some ingredients of alleged offences, even then the nature of prosecution case does not warrant the custodial interrogation of the applicants. Thus, on both these counts, I am inclined to allow the application. Hence, the following order :

ORDER

- i) The application is allowed.
- ii) The interim protection granted by this Court on 15th September 2021 is confirmed and made absolute.
- iii) The application stands disposed of accordingly.

(V. G. BISHT, J.)